ITA

INTERNATIONAL TELEMEDIA ASSOCIATES, INC.

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October 10, 1994

Federal Communications Commission
Office of the Secretary
Washington, DC 20554

To whom it may concern:

Enclosed please find one (1) original and nine (9) copies of International Telemedia Associate, Inc.'s comments relative to CC Docket No. 93-22.

Respectfully,

E. Fernando Prieto
Legal Assistant

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act	)))	CC Docket No. 93-22

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To: The Commission

COMMENTS OF INTERNATIONAL TELEMEDIA ASSOCIATES

International Telemedia Associates, Inc. ("ITA") hereby submits its comments in response to the Commission's Order on Reconsideration and Further Notice of Proposed Rulemaking regarding the policies and procedures implementing the Telephone Disclosure and Dispute Resolution Act ("TDDRA").[1] Upon reading the Notice, it is apparent that the Commission is reacting to what it considers the fraudulent and deceptive acts of information providers ("IPs ") relative to the provisioning of pay-per-call information services utilizing 800 numbers ("800 Transactions"). To curtail this perceived fraud and deceit, the Commission seeks to require that all "presubscription or comparable arrangements" between an IP and it's customer authorizing access to and billing for 800 Transactions be reduced to a writing *prior to the customer being billed for such a purchase.*[2] It is ITA's position that such a requirement, by virtue of the undue burdens placed on IPs, consumers, and common carriers, will effectively thwart the

[1] Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, FCC 94-200 (Released August 31, 1994) ("Notice").

[2] Notice, at Appendix C, par. 2.

commercial viability of the 800 Transaction. ITA submits that through the utilization of existing technology and information data bases, coupled with full disclosure requirements as amplified later in this Comment, a least burdensome alternative is available to achieve the stated goal of the Commission in this rulemaking; namely, the extension of greater protections to consumers with regard to the 800 Transaction.

ITA is in the business of providing billing and collection services to providers of 900 pay-per-call transactions, 800 Transactions, and other types of information and "enhanced services" telecommunications transactions. [3] Through its contractual relationships with Regional Bell Operating Companies ("RBOCs") and independent Local Exchange Carriers ("LECs"), ITA can send to them specifically formatted call transaction data, the result of which is an ITA branded bill page in an end user's local telephone billing statement. ITA offers this access to the local telephone bill page as an invoicing device to IPs, who, in turn, utilize it to most effectively and efficiently bill their customers for access to their applications. Because of the highly complex nature of these transactions, ITA provides many other support services to its IP clients, including call receivable management, accounting , and tracking functions, expedited payment and factoring programs, and end user customer service inquiry and dispute resolution services.

ITA fully supports the Commission's overall objective to strengthen regulations and afford greater protection for consumers against unscrupulous providers of information services; be they providers of 800 Transactions or otherwise. However, it

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[3] Enhanced services include providing and billing for electronic messaging, paging, telegrams, video conferencing, FAX services, voice mail and other non-tariffed telecommunications related services.

disagrees with the means by which the Commission proposes to accomplish this end in this circumstance. In particular, there are lesser restrictive alternatives to the writing requirement that can accomplish the reasonable aims of the Commission as articulated in this Notice.

Lastly, in the future, when one looks back on the advent of the information age, 900 pay-per-call transactions and 800 Transactions will be considered the dinosaurs of that era. Yet what regulations do today will effect the development of the applications of the future. ITA is committed to the belief that the future of the information age depends upon diversification; diversification in the modes of delivering information to consumers and diversification in the billing platforms that support them. It is incumbent upon the Commission, guided by the TDDRA's mandate of promoting beneficial information services[4], to regulate in such a manner as to protect consumers yet not stifle this new and burgeoning information industry.

A. THE PROBLEMS ASSOCIATED WITH 800 PRESUBSCRIPTION SERVICES ARE THE RESULT OF THE UNDERUTILIZATION OF EXISTING TECHNOLOGY IN AS MUCH AS THEY ARE THE RESULT OF FAILURES IN BUSINESS PRACTICES

The telephone companies are the repository for countless bits of information about consumers. Associated with every telephone number issued and activated by the telephone companies is a wealth of information, on line and/or easily accessible, that can be used to put IPs and billing entities on reasonable notice as to whether or not a consumer wishes to have access to or be billed for information services, *regardless of*

4 Notice, at par. 23.

what manner such services are billed or delivered. ITA believes two such existing data bases could be brought to bear to correct many of the problems relative to 800 Transactions. These data bases were either underutilized by IPs and billing entities in the provisioning of 800 Transactions or were not available for use when the 800 Transaction was first brought to the consumer marketplace.

The first, the Line Identification Data Base ("LIDB"), is a data base that can be best understood as comprising that information a consumer gives to the telephone company upon ordering and activating a telephone number in his or her name. From the information compiled in this data base reasonable assumptions can be made as to whether a particular consumer's telephone number is for a business or residence; whether the telephone number is associated with a pay phone operator, a university, hospital or governmental entity; and whether certain toll restrictions are applicable to the line in question. Such toll restrictions may take the form of MTS toll blocking and third-party billed or collect call blocking. This data base is currently available real time to IPs and billing entities through vendors so that determinations relative to an originating number can be made prior to allowing a consumer access to or billing for a given pay-per-call application.[5]

The second data base, the 900 blocking data base, is a data base held and maintained by telephone companies containing the telephone numbers of all consumers

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5 One such vendor of LIDB information is Card*Tel, Inc. It charges $0.07 per LIDB look-up. ITA currently is connected real time to Card*Tel, Inc. to validate call transactions prior to billing. Upon a LIDB look-up, if the incoming call transaction is cross-matched against the data base and an indicator reveals, for instance, that there is a third party billing block on the telephone line to be billed, ITA marks the call as unbillable due to toll restrictions and returns the call transaction record to the IP

who have proactively requested that they not have access to 900 accessed pay-per-call services. This block, *developed specifically to address the problems of the then new 900 pay-per-call industry,* is a network level block maintained at the local telephone company central office switch that prevents out dial access from the blocked telephone number to all 900 services on a global basis. This data base is currently unavailable to IPs and billing entities and the RBOCs and LECs who compile such information have uniformly denied its access on proprietary grounds.

Because ITA has not had access to the 900 blocking data base information, it cannot comment as to its real life practical effectiveness when applied to the 800 Transaction situation. But a reasonable assumption can be made, one ITA believes is self evident on its face. Can it not be assumed that consumers who have taken the time to proactively establish a 900 block on their phone; a block which prevents access to all 900 pay-per-call programs, would also want to have an 800 Transaction block as well? With IP and/or billing entity access to such a data base, it could be utilized as a call validation data base for all information transactions so that consumers who have existing 900 blocks or proactively establish 900 blocks in the future would necessarily be blocked from access to all pay-per-call information services.

To avoid the proprietary and privacy objections tendered by the telephone companies, access to the information could be established via a "black box" configuration, whereby the telephone companies would compile this information and download it to an independent data base management firm who would maintain and update the data base on a going forward basis.[6] Access to the data base by IPs and billing entities would be restricted to simple cross matching of an incoming call ("ANI") against the data base as a whole. If the number matches one found within the compiled 900 blocking data base, then the call is either terminated prior to access by the IP or marked as unbillable prior to submission to the telephone company for billing and returned to the IP by the billing entity. In essence, what ITA is suggesting is turning what was once known as the 900 block into something broader and more encompassing; an information services or enhanced services block.

The experience with LIDB is more measurable because LIDB is currently available to IPs and billing entities for call validation. ITA has experienced the practical effects of the implementation of LIDB call validation into its billing and collection operations relative to the 800 Transaction. Prior to the implementing of LIDB call validation, ITA's inquiry center was deluged by customer service inquiries from providers of pay phones, from university and college administrators, and from hotel and business owners, claiming that the billable transactions completed from their phones were unauthorized. Had ITA implemented LIDB call validation techniques, a substantial portion of these calls could have been blocked *prior to fraudulent consumer access or unauthorized billing*. In each of these situations a LIDB indicator may have signaled the IP or billing entity that it should not accept or bill this call.[7]

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[6] Many telephone companies have asserted that it is the state PUCs and PSCs that have mandated "no access" position relative to the 900 blocking data bases. ITA believes FCC pronouncement on the subject of data base accessibility could open up the access that is needed. Card*Tel, Inc., previously mentioned in fn. 5, has explored this possibility and can accommodate the storage and maintenance the needs to implement such a data base.

[7] For instance, hotels and motels generally have collect call toll restrictions on their phone lines. Such a restriction, embedded in the LIDB, would put an IP or billing entity on notice that it should not accept or bill a call from that originating number. Similarly, universities place numerous toll

Since the implementation of LIDB, ITA has been extensively post call validating all 800 Transactions it submits to the RBOCs and LECs for billing and collection. Dramatic reductions in the inquiry and chargeback rates have occurred. Claims of unauthorized use are no longer the top end user inquiry category. The point of this case illustration is that the implementation of available technology can significantly impact the very problems that gave rise to this rulemaking.

B. THE BENEFITS OF IMPOSING A WRITING REQUIREMENT ON THE 800 TRANSACTION DO NOT OUTWEIGH THE BURDENS TO COMMON CARRIERS, INFORMATION PROVIDERS AND CONSUMERS.

In all sectors of the telecommunications industry, transactions are routinely processed without the requirement of written authorization prior to access to a telecommunications service. It is standard practice in the industry for consumers to initiate and consummate telecommunications related agreements over the phone. For instance, interexchange carriers (IXCs) sign up consumers to their residential long distance service and calling card programs (which may offer ancillary information services) without any written authorization from the customer.[8] Access and billing may commence immediately after a consumer's "verbal contract." Further, the TDDRA, in its billing dispute regulations promulgated by the Federal Trade Commission (FTC), under

restrictions on students' phone lines that are also part of the LIDB and would put an IP or billing entity on notice that it should not accept or bill a call from that originating number.

8 Sprint, for example, direct mails potential customers and provides an 800 number to consummate an agreement to utilize their calling card.

certain circumstances, allow for the billing dispute process to reach resolution without the need for a writing.[9]

In the case of the 800 Transaction, a writing requirement is unnecessary and would make the 800 Transaction as a product financially unfeasible. The cost of compliance would drive the IP away from offerinng the transaction as a product. IPs would be required, on top of the advertising costs of generating interest in his or her programs, to also be forced to get into the direct mail business. Every consumer expressing interest in an application would have to be mailed a presubscription card. This is an expense that most IPs will not want to incur and will greatly diminish their end result bottom line.

Second, common carriers will be unduly burdened by the necessary implications of the writing requirement. The proposed rule mandates that common carriers (in this case RBOCs and LECs) receive notice of presubscription prior to billing for the 800 Transaction.[10] The RBOCs and LECs are ill equipped to deal with each IPs' customers on an application by application basis. In the vast majority of cases, the RBOCs and LECs have no relationship, contractual or otherwise, with the IP. It is the billing entity, like ITA, that deals directly with the IP. ITA acts as a clearinghouse, in contractual privity with both the telephone company and the IP, and necessarily acts as a conduit for data, financial reports, and cash flow between the two disparate entities. If a writing requirement must be mandated at all (and ITA urges that it is not), the Commission should take the burden of notification off the common carrier and place it on the billing

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9 See, generally, CFR Sec. 308 et. seq.

10 <u>Notice</u>, at Appendix C, par. 3.

entity who is contracted directly with the IP to provide billing services and who, in all likelihood, understands the applications on a program by program basis and is performing customer service inquiry and billing dispute resolution functions.

Finally, consumers will be burdened by the necessity of the writing requirement. They will be inordinately and unreasonably delayed in obtaining access to an application or service.

C. THERE ARE LESSER RESTRICTIVE ALTERNATIVES THAT WILL ACCOMPLISH THE COMMISSIONS ENDS WITHOUT EFFECTIVELY LESSENING THE COMMERCIAL SUCCESS OF SUCH INFORMATION SERVICES

ITA was at the forefront of an industry movement to create a viable, long term product in the 800 Transaction.[11] ITA stands behind and supports the work completed by The Interactive Services Associations (ISA) Proposed Guidelines for 800 Presubscription as written and promulgated June 17, 1994. ITA supports this document because, again, there is great need for regulations that allow for flexibility and diversity. The ISA guidelines accomplish this while at the same time extend consumer protections relative to the 800 Transaction. (See Appendix 1; ISA TEST GUIDELINES GOVERNING 800 PRESUBSCRIPTION).

11 In March of 1994, ITA and NYNEX, under the auspices of the National Association of Interactive Services (now ISA) gathered together industry representatives from the RBOCs and LECs, Bellcore, Billing Entities, Service Bureaus, and IPs with the stated purpose of self regulating the 800 Transaction to ensure its long term viability. The fruits of this enterprise are the ISA TEST GUIDELINES GOVERNING 800 PRESUBSCRIPTION found at Appendix 1 of this comment.

CONCLUSION

By implementing LIDB call validation, by having access to the 900 blocking data bases, by fully disclosing the material terms and conditions relating to the 800 Transaction and by having the consumer meaningfully acknowledge an understanding and acceptance of those terms, the 800 Transaction can be a viable, long term information product. The writing requirement is unnecessary and will have the net effect of making it unfeasible to deliver to the consumer marketplace.

Respectfully submitted.

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APPENDIX 1

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ISA TEST GUIDELINES GOVERNING 800 PRESUBSCRIPTION June 17, 1994

I. STATEMENT OF PURPOSE.

The Interactive Services Association ("ISA"), representing the business and public policy interests of the pay-per-call industry endorses, by those companies who chose to do so, testing the voluntary procedures developed by ISA members who were previously NAIS members. The ISA believes in the importance of the long-term viability of the 800 presubscription billing option while at the same time ensuring that consumers are protected.

The industry is very concerned with the growing problem of unauthorized access to certain 800 presubscribed services. For this reason, the former NAIS (recently merged with the ISA) convened the 800 Presubscription Working Group on March 1, 1994 to review the problems associated with 800 presubscription and to develop industry-wide standards governing the current and future use of 800 presubscribed services. The ISA Working Group consists of representatives from the interexchange and local exchange carriers, third party billing entities, service bureaus and information providers.

II. THE PRESUBSCRIPTION EVENT SHALL CONSIST OF THE FOLLOWING REQUIREMENTS:

A. <u>The Initial Customer Call</u>. Except as provided in sections III.A and C below, a provider of presubscribed 800 services ("Provider") shall, at the time of the customer's initial call ("Initial Call") to the service, obtain the customer's name, home address, home telephone number and date of birth. In addition, each Initial Call shall be validated against Line Information Data Bases ("LIDB") pursuant to the LIDB requirements set forth in section V below.

B. <u>Compliance with the Current FCC/FTC Regulations Governing 800 Presubscribed Services</u>. In order to establish a valid presubscription agreement or comparable arrangement with the customer, the Provider shall:

1. Clearly and conspicuously disclose to its customer all material terms and conditions associated with the use of the Provider's service, including the Provider's name and address, a business telephone number which the customer may use to obtain additional information or to register a complaint, and the rates for the service;

2. Agree to notify the customer of any future rate changes;

3. Obtain the agreement of the customer to utilize the service on the terms and conditions disclosed by the Provider; and

4. Require the use of a personal identification number ("PIN") or other means to prevent unauthorized access of the service.

III. CONFIRMING THE EXISTENCE OF A PRESUBSCRIPTION AGREEMENT.

In addition to complying with the requirements in section II above the Provider shall confirm the existence of a valid presubscription agreement or comparable arrangement through the use of one of the following methods:

A. Written authorization, in which the Provider shall obtain:

1. the customer's name, home address, home telephone number and date of birth;

2. a statement that the customer has decided to use the Provider's service;

3. a statement acknowledging the customer's understanding of and agreement with the Provider's terms and conditions of service; and

4. the customer's signature.

Note: This method shall not be subject to the Initial Call requirements set forth in section II.A. A PIN shall not be issued to the caller until written authorization has been received by the Provider from the customer.

B. Written Notice Mailed/Customer Call Back, in which the Provider shall:

1. comply with the Initial Call requirements set forth in section II.A;

2. mail a written notice to the customer's home address which confirms the customer's desire to establish a presubscription agreement and provides the customer with a PIN; and

3. require the customer to call back to a 900 number to activate the PIN and to commence billing for the presubscribed service. Providers shall establish one or more 900 numbers for which there shall be no charge to the customer for such confirmation. During the activation call, which must be made from the customer's home telephone, the customer shall be required to enter the billing

telephone number from which he or she is calling, the assigned PIN and his/her date of birth. The Provider shall perform a LIDB look-up during this call back.

C. Direct Mail With Written Notification, in which the Provider shall:

1. mail a promotional piece in a sealed envelope directly to the potential customer which contains a unique PIN assigned to the customer's name and home address;

2. require the customer to call an 800 number to activate the PIN. During the activation call, which must be made from the customer's home telephone, the customer shall be required to enter the information required by section II.A above and the assigned PIN. The caller will not be able to access the Provider's service during the activation call described in this section; and

3. mail a letter to the customer confirming the existence of a presubscription agreement, its terms and conditions, and provide a customer service number for blocking and/or inquiries.

4. After the activation call described in C.2 above, the customer shall be required to call back in order to access the Provider's services.

Note: This method shall not be subject to the Initial Call requirements set forth in section II.A.

D. Electronic or Live Operator Authorization Using a 900 Number.

1. After the Initial Call, allow for electronic or manual authorization that confirms the information described in section II.A. Providers shall establish one or more 900 telephone numbers for which there shall be no charge to the customer for such confirmation. Calls to the 900 number(s) will connect the customer to a voice response unit or a live operator that requires the customer to input the information described in section II.A.

IV. BLOCKING OF 800 PRESUBSCRIBED SERVICES SHALL BE PROVIDED BY THE FOLLOWING MEANS:

A. A nationwide 800 presubscription blocking database shall be established and added to the required LIDB look-up. Within sixty (60) calendar days from the date that industry users agree upon a billing method for use of the database, customers will be able to use an 800 number to block or unblock their ANI.

B. The customer mailing piece shall list the telephone number to request blocking of 800 presubscribed services.

C. All billing entity customer service centers shall provide the customer, upon request, with the telephone number to order blocking of presubscribed services.

V. LIDB REQUIREMENTS AND REJECT CODES.

A. First time callers shall be bounced against LIDB. If a first time query gives a non-reject code, then that ANI must be checked in increments no longer than seven (7) calendar days since either the last query for that ANI or the last time that ANI attempted (successful or not) to access the Provider's service.

B. The customer's ANI shall be validated when the billable PIN is activated, regardless of the time between LIDB queries for that customer's ANI. Only one PIN shall be issued per ANI and the billing telephone number ("BTN") and the ANI must match at all times.

C. All LIDB queries shall request a "collect call verify" format, since there does not currently exist an "information services" LIDB verification request.

D. A Provider who receives the following unconditional codes from the LIDB response shall reject the ANI:

<u>Unconditional Reject Codes</u>

214 - No Collect Calls
216 - Billed Number Screening (BNS), Public Coin Phone
217 - Billed Number Screening (BNS), Public Non-Coin Phone
218 - Billed Number Screening (BNS), Semi-Public Coin Phone

E. A Provider who receives the following codes from the LIDB response shall either:

1. reject the ANI; or
2. re-request until:

   (a) a non-reject code is received;
   (b) an unconditional reject code is received; or
   (c) reject because a conditional code set forth below is repeatedly being received.

Conditional Reject Codes

201 - BNS, Missing Customer Record (XXXX line check failure)
202 - LIDB Missing Group, NPA NXX Check Failure
203 - LIDB Destination Point Code Table Failure (local reject)
205 - SS7 Network Problem
206 - No Host
207 - LIDB Access Denied
209 - Network Message Error
219 - LIDB Response Unrecognized
220 - System Error/System Time-Out
221 - No Host
222 - No Host
223 - LIDB Screened Response Error Message
224 - LIDB Misroute Error Message
225 - LIDB Reject Component Error Message
226 - LIDB Component Sequence Error Message
227 - SS7 Unitdata Service Message, Network Problem

VI. EFFECTIVE DATE.

The *ISA Test Guidelines Governing 800 Presubscription* shall be effective on or before June 20, 1994. While almost all companies involved in this process have stated their ability to implement the above test guidelines by June 20, a few companies may not be able to fully implement the guidelines until June 27, 1994.

PLEASE NOTE: If you have any questions regarding this document, please contact the Interactive Services Association: Robert L. Smith, Jr., Executive Director (301/495-4955) or Bill Burrington, Esq., Public Policy Counsel (202/833-2333). Thank you.